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**FOCAL COMMUNICATIONS CORPORATION)
OF ILLINOIS)**

**Petition for Arbitration Pursuant to)
Section 252(b) of the Telecommunications)
Act of 1996 to Establish an Interconnection)
Agreement with Illinois Bell Telephone)
Company d/b/a Ameritech Illinois)**

Docket No. 00 - 0027

PETITION FOR ARBITRATION

Negotiation Request:
135th Day Thereafter:
160th Day Thereafter:
9 Months Thereafter:

August 6, 1999
December 19, 1999
January 13, 2000
May 6, 2000

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Dated: January 12, 2000

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

FOCAL COMMUNICATIONS CORPORATION)
OF ILLINOIS)

Petition for Arbitration Pursuant to)
Section 252(b) of the Telecommunications) Docket No. 00-____
Act of 1996 to Establish an Interconnection)
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Company d/b/a Ameritech Illinois)

PETITION FOR ARBITRATION

Focal Communications Corporation of Illinois ("Focal"), pursuant to Section 252(b) of the Communications Act of 1934, as amended, (the "Act") 47 U.S.C. § 252(b), hereby petitions the Illinois Commerce Commission ("Commission") for arbitration of the unresolved issues in the interconnection negotiations between Focal and Illinois Bell Telephone Company d/b/a Ameritech Illinois ("Ameritech") and for confidential treatment of certain documents. Specifically, Focal requests that the Commission resolve each of the issues designated herein as unresolved by ordering the Parties to incorporate Focal's position in the interconnection agreement that is ultimately executed by the Parties. In support of this Petition, Focal states as follows:

I. Focal Communications Corporation of Illinois is a wholly-owned subsidiary of Focal Communications Corporation, a publicly-traded Delaware Corporation, having its principal place of business at 200 North LaSalle Street, Suite 1100, Chicago Illinois 60601. Focal Communications Corporation, through various operating subsidiaries, is authorized to and does in fact provide competitive local exchange and exchange access services in

numerous states, and interexchange services throughout the United States. Focal Communications Corporation of Illinois is the subsidiary providing such services in Illinois.

2. Ameritech is an incumbent local exchange carrier ("ILEC") in Illinois as defined by Section 251(b) of the Act. 47 U.S.C. § 251(h). Within its operating territory, Ameritech has been the incumbent provider of telephone exchange services during all relevant times.

3. All correspondence, notices, inquiries, and orders regarding this Petition should be served on the undersigned and on the following:

Jane Van Duzer
Focal Communications Corporation of Illinois
200 N. LaSalle Street, Suite 1100
Chicago, Illinois 60601

4. Under the Act, parties to a negotiation for interconnection, access to unbundled network elements, or resale of services within a particular state have a right to petition the State commission for arbitration of any open issues whenever negotiations between them fail to yield an agreement. 47 U.S.C. § 252(b). Under Section 252(b)(1) of the Act, the request for arbitration of the state commission may be made at any time during the period from the 135th day to the 160th day (inclusive) after the date on which the ILEC receives a request for negotiations under Section 251 of the Act. The arbitration must be concluded no later than nine months after the request for negotiations. 47 U.S.C. § 252(b)(4)(C).

5. Focal and Ameritech entered into an interconnection agreement that expired on October 28, 1999. By letter dated July 28, 1999, Ameritech advised Focal that Ameritech did not intend to extend the term of the interconnection agreement and that

under Section 21.1 of the interconnection agreement, Ameritech was giving Focal written notice that the interconnection agreement would expire on October 27, 1999. By letter dated August 6, 1999, Focal acknowledged receipt of Ameritech's July 28, 1999 letter and formally requested Ameritech to initiate negotiations for a new interconnection agreement pursuant to Section 252 of the Act.¹ The statutory window during which Focal may request arbitration is December 19, 1999 through January 13, 2000. Accordingly, this Petition is filed within the time period established by the Act.

6. Focal seeks to complete a successor interconnection agreement that will replace the existing interconnection agreement. Ameritech and Focal have held numerous meetings, both in-person and by telephone, to discuss the rates, terms, and conditions of Ameritech's provision to Focal of interconnection, unbundled network elements, and related services and facilities. During these negotiations for a successor interconnection agreement, Ameritech proposed a draft agreement and Focal proposed changes to that draft. During these negotiations, Focal and Ameritech reached agreement on many of the issues raised and specific language has been agreed upon.² Unfortunately, the Parties failed to reach agreement on a number of specific issues. Thus, Focal seeks arbitration of the unresolved issues of which it is currently aware. Due to the imminent close of the statutorily prescribed arbitration window, Focal is compelled to seek arbitration on several

¹During the pendency of negotiations for a new interconnection agreement, the Parties have continued to operate, and are currently operating, pursuant to the expired interconnection agreement.

²While Focal believes that it is in agreement with Ameritech on many issues, as evidenced by the correspondence attached and incorporated as Exhibit C, Focal reserves the right to have the Commission resolve any other disputes in the event Ameritech should renege on any of the commitments made during the good faith negotiations.

issues that remain under discussion between the Parties. Focal remains hopeful that there will be explicit agreement on these issues prior to hearing, either through continued negotiations or Commission mediation, and that the scope of the arbitration can be reduced. Attached as Exhibit A hereto and incorporated herein by reference is a copy of the current version of Ameritech's proposed interconnection agreement. Attached as Exhibit B hereto and incorporated herein by reference are the changes Focal proposes to make to that agreement.

7. This arbitration must be resolved by the standards established in Sections 251 and 252 of the Act, and the rules adopted by the Federal Communications Commission ("FCC") in the *Local Competition Order*. See 47 U.S.C. §§ 251 and 252; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 13042 (1996) ("*Local Competition Order*"). Section 252(c) of the Act requires a state commission resolving open issues through arbitration to:

- (1) ensure that such resolution and conditions meet the requirements of section 251, including the regulations prescribed by the [FCC] pursuant to section 251; [and]
- (2) establish any rates for interconnection, services, or network elements according to subsection (d) [of section 252].

8. The Commission must make an affirmative determination that the rates, terms, and conditions that it prescribes in this arbitration proceeding for interconnection are consistent with the requirements of Sections 251(b)-(c) and Section 252(d) of the Act.

9. Under Section 251 (b) (47 U.S.C. § 251 (b)) each local exchange carrier has the following duties:

- (1) The duty not to prohibit and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services;
- (2) The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the [FCC];
- (3) The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays;
- (4) The duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with Section 224 of [the Act]; and
- (5) The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

10. Section 251 (c) states that each ILEC, such as Ameritech, has the following additional duties:

- (1) The duty to negotiate in good faith;
- (2) The duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network —
 - (A) for the transmission and routing of telephone exchange service and exchangeaccess;

- (B) at any technically feasible point within the carrier's network;
 - (C) that is at least equal in quality to that provided by the local exchange carrier to itself, or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection; and
 - (D) on rates, terms and conditions that are just, reasonable and nondiscriminatory;
- (3) The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable and nondiscriminatory. [And] in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service;
- (4) The duty --
 - (A) to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers; and
 - (B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations, on the resale of such telecommunications service, except that a State commission may . . . prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers;
- (5) The duty to provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that

local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks; and

- (6) The duty to provide, on rates, terms, and conditions that are just, reasonable, and non-discriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

11. Section 252(d) sets forth the applicable pricing standards for interconnection and network element charges as well as for transport and termination of traffic. Section 252(d)(1) states in pertinent part that “[d]eterminations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment. . . and the just and reasonable rate for the network elements . . . shall be (i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and (ii) nondiscriminatory, and (B) may include a reasonable profit.” 47 U.S.C. § 252(d)(1). Section 252(d)(2)(A) further states in pertinent part that “a State commission shall not consider the terms and conditions for reciprocal compensation [for transport and termination] to be just and reasonable unless (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of another carrier;

and (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.” 47 U.S.C. § 252(d)(2)(A).

12. The issues that remain open and that need to be resolved in this arbitration are summarized as follows:

ISSUE 1: Focal and Ameritech were unable to agree upon the rate to be paid for reciprocal compensation, [Section 4.7 of the Interconnection Agreement]

FOCAL POSITION: Reciprocal compensation should be paid on the transport and termination of all local calls at a cost-based rate. Ameritech should pay Focal a single rate any time Ameritech delivers traffic to Focal's point of interconnection. Focal should pay Ameritech that same rate when Focal delivers traffic to Ameritech's point of interconnection. Focal's switch provides the same (if not greater) geographic coverage as Ameritech's end office and tandem switches provide in combination. Accordingly, the reciprocal compensation rate should be the "tandem" rate and should include at least the following rate elements: end office local termination, tandem switching, tandem transport termination and tandem transport facility mileage.

AMERITECH POSITION: Ameritech will pay Focal the tandem rate if the traffic meets several criteria arbitrarily established by Ameritech.

ISSUE 2: Whether Focal should be compensated for calls originating on Ameritech's network and delivered to a Focal ISP customer. [Section 4.7 and Schedule 1.2 of the Interconnection Agreement]

FOCAL POSITION: Focal incurs the same costs for calls originating on the Ameritech network, routed over the Focal network and delivered to a Focal ISP customer as it does for calls terminated to other end users. Focal should be compensated for these costs at the same rate as it is compensated for non-ISP local calls originating on Ameritech's network and routed to a Focal customer.

AMERITECH
POSITION:

Ameritech does not deny that Focal incurs costs for calls originating on Ameritech's network and delivered to a Focal ISP customer. However, Ameritech does not believe that it is obligated to compensate Focal for those costs.

ISSUE 3:

Focal and Ameritech were unable to agree upon the terms and conditions under which Focal would be able to convert existing customer access circuits into a UNE combination which is sometimes referred to as Enhanced Extended Link ("EEL"), as well as the conditions under which Focal can purchase customer access circuits combined with inter-office transport. [Schedule 9.2 of the Interconnection Agreement]

FOCAL
POSITION:

Loop/transport combinations which are currently provided via customer access circuits priced at special access rates should be provided as the UNE combination sometimes referred to as an EEL at TELRIC-based rates pursuant to the UNE Remand Order because this is an efficient, non-discriminatory, technically feasible manner in which to purchase UNEs. This combination should be offered at cost-based rates, and under non-discriminatory and reasonable terms and conditions. This combination should be available for both existing customer access circuits and circuits to be provided in the future.

AMERITECH
POSITION:

Only special access circuits installed as of November 8, 1999 may be converted to EELs and priced based on TELRIC and only if numerous conditions are satisfied, including: (1) the circuits contain "substantial" local exchange traffic, i.e., Focal must provide at least one third of the customer's local exchange service and at least half of the circuits must have at least 5% of local voice traffic, and the entire circuit must have at least 10% of local voice traffic; (2) All converted circuits must terminate in collocation space; and (3) Focal must agree that access to the Internet is not local traffic.

ISSUE 4: Ameritech has proposed language in Section 4.3.12 of the interconnection agreement which would require Focal to maintain network facilities used to provide local service in the geographic area assigned to the central office code and would make Focal solely responsible for the transport between Ameritech's end office and the Focal point of interconnection in the case of one category of service (Virtual Office Service). [Section 4.3.12 of the Interconnection Agreement]

FOCAL POSITION: The language proposed by Ameritech in Section 4.3.12 would impose additional, unlawful and unreasonable interconnection obligations on Focal that would impair Focal's ability to offer Virtual Office Service. This language should be rejected.

AMERITECH POSITION: Focal should maintain network facilities used to provide local service in the geographic area assigned to the central office code and be solely responsible for transport service between Ameritech's end office and the Focal point of interconnection, the latter only with respect to Virtual Office Service.

ISSUE 6: The parties were unable to agree on a description of the loop Ameritech must provide to Focal for Focal's provision of xDSL services. [Section 2.1.6 of Schedule 5, and Schedule 9.2.1 and the Pricing Schedule of the Interconnection Agreement]

FOCAL POSITION: Focal should be able to purchase generic clean copper loops defined as follows: A 2-wire or 4-wire xDSL loop (xDSL loop) is a loop that supports the transmission of DSL technologies. The loop is a dedicated transmission facility between a distribution frame, or its equivalent, in an Ameritech central office and the network interface device at the customer premises. A copper loop used for such purposes will meet basic electrical standards such as metallic conductivity and capacitive and resistive balance, and will not include load coils or excessive bridged tap, i.e., bridged tap in excess of 2,500 feet in length. The loop may contain repeaters at Focal's option. The loop cannot be categorized based on loop length and limitations cannot be placed on the length of xDSL loops. Focal must be able to change the type of xDSL technology used on the loop as its customers needs change. The deployment of advanced services loop technology is governed by FCC regulations which should be reflected in the interconnection agreement. The cost (and resulting price) for

any such generic clean copper loop does not vary according to the service provisioned over such loop.

AMERITECH
POSITION:

Ameritech wants to define xDSL loops in a way that restricts their usage to certain technologies and that includes loop length and other limitations, Ameritech's proposal is inconsistent with FCC regulations.

ISSUE 6:

The parties were unable to agree on the degree to which unbundled **subloops** would be made available by Ameritech to Focal. [Section 2.1.2 of Schedule 9.5 of the Interconnection Agreement]

FOCAL
POSITION:

Focal should have the option to collocate DSLAM equipment in the remote terminal serving the customer at the fiber/copper interface point. In instances where there is no spare copper facility, Focal is unable to install a DSLAM at the remote terminal, and Ameritech has placed a DSLAM at the remote terminal, Ameritech should unbundle and provide access to its DSLAM.

AMERITECH
POSITION:

Ameritech is not willing to make this subloop unbundling available to Focal.

ISSUE 7:

The parties were unable to agree on whether Ameritech is able to change any components of an already-provisioned xDSL loop without Focal's consent. [Section 9.5.6 of the Interconnection Agreement]

FOCAL
POSITION:

Ameritech should not be able to switch loops or any other component of an already-provisioned xDSL loop without Focal's consent, since the result may be a degradation of service to Focal's customer.

AMERITECH
POSITION:

Ameritech is not willing to agree to providing Focal advance notice and obtaining Focal's consent prior to such a switch in components of an already-provisioned xDSL loop.

ISSUE 8: The parties were unable to agree to the applicability of liquidated damages in the event of Ameritech's failure to timely provision customer access circuits. [Section 24.4 of the Interconnection Agreement]

FOCAL POSITION: Ameritech must be liable for liquidated damages in the event of the untimely provisioning of customer access circuits regardless of whether they are purchased out of Ameritech's tariff.

AMERITECH POSITION: Ameritech believes that it need not negotiate the issue of whether liquidated damages should apply to customer access circuits purchased out of its tariff.

ISSUE 9: The parties were unable to agree on the rates, terms and conditions for certain "standard non-standard" collocation in cageless space. [Section 12.3 of the Interconnection Agreement]

FOCAL POSITION: Since Ameritech's rate, terms and conditions are not ready, the parties do not yet have agreement on this issue.

AMERITECH POSITION: Ameritech is developing rate, terms and conditions for this collocation arrangement which will not be ready by January 13, 2000.

ISSUE 10: Schedule 9.9.1 refers to Schedule 10.13. However, Ameritech's currently proposed interconnection agreement apparently inadvertently fails to include Schedule 10.13.

FOCAL POSITION: Schedule 10.13 should be included in the interconnection agreement executed by the parties.

AMERITECH POSITION: Ameritech should agree that this Schedule should be included with the Interconnection Agreement.

ISSUE 11: The parties were unable to agree on interconnection agreement language regarding the provision of real time loop make-up information and modifications to Ameritech's OSS systems. [Section 9.11 of the Interconnection Agreement]

FOCAL
POSITION: Focal must receive timely, reliable loop makeup information from Ameritech in order to provide xDSL services. Ameritech's OSS interfaces must be modified in accordance with FCC regulations and state and federal SBC-Ameritech merger conditions.

AMERITECH
POSITION: Ameritech has not yet formally agreed to incorporate Focal's proposal into the interconnection agreement.

ISSUE 12: The parties were unable to agree on language which would reflect Focal's entitlement to OSS discounts. [Section 9.6.1 of the Interconnection Agreement]

FOCAL
POSITION: The interconnection agreement should include a provision which states that Focal is entitled to rates, terms and conditions for unbundled loops, including OSS discounts, to which it is entitled. The interconnection agreement should reflect state and federal SBC/Ameritech merger conditions.

AMERITECH
POSITION: Ameritech has not yet formally agreed to incorporate this provision.

ISSUE 13: The parties were unable to agree on the provisioning intervals for xDSL. [Section E of Schedule 9.10 and Section 2.1.6 of Schedule 9.5 of the Interconnection Agreement]

FOCAL
POSITION: Focal must receive xDSL loops on reasonable nondiscriminatory terms.

AMERITECH
POSITION: Ameritech has not agreed to include specific provisioning intervals in the interconnection agreement and has attempted to 'limit its responsibility through restrictive contract language. (See also Issue 5)

ISSUE 14: The parties were unable to reach agreement on intervals for all Network Element Performance Activities. [Section 2.1.4 of Schedule 9.5 and Section B of Schedule 9.10 of the Interconnection Agreement]

FOCAL
POSITION:

Focal must be able to receive interconnection facilities and UNEs in a timely and reliable manner. This requires that the interconnection agreement contain reasonable, clearly defined and specific provisioning intervals,

AMERITECH
POSITION:

Ameritech proposes to include vague "availability" or "force and load" qualifications and quantity restrictions in the agreement which would unreasonably limit Ameritech's obligations.

13. Section 252(b)(2)(A) of the Act requires the petitioning party to submit with its petition all relevant documentation concerning the unresolved issues, the position of each of the parties with respect to each of those issues, and any other issue discussed and resolved by the parties. Additional information responsive to this requirement is provided in Exhibit C to this Petition. The information contained in Exhibit C is confidential since it reflects communications in the nature of settlement discussions as well as information that is proprietary to Focal. Therefore, Exhibit C is being filed under separate cover letter. Focal hereby requests that the Hearing Examiner issue an order directing that Exhibit C not be disclosed to the public.

WHEREFORE Focal Communications Corporation of Illinois hereby respectfully requests that the Commission:

- (1) Arbitrate the unresolved issues identified by Focal Communications Corporation of Illinois in this Petition within the timeframe required by the Act;
- (2) Issue an order requiring incorporation of the positions of Focal Communications Corporation of Illinois on the disputed issues described in this Petition into a successor interconnection agreement to be executed by Focal Communications Corporation of Illinois and Ameritech:

- (3) Retain jurisdiction of this arbitration until the parties have submitted an agreement for approval by the Commission in accordance with Section 252(e) of the Act;
- (4) Issue an order directing that Exhibit C to this Petition, which contains confidential and proprietary information, not be disclosed to the public; and
- (5) Grant such other and further relief as the Commission deems appropriate.

Dated: January 12, 2000

Respectfully submitted,



Carrie J. Hightman

Jonathan [REDACTED] and [REDACTED]

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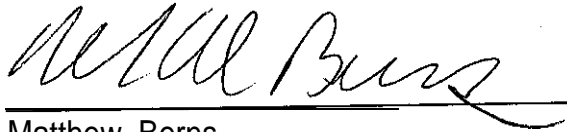
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STATE OF ILLINOIS)
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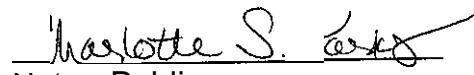
VERIFICATION

I, Matthew Berns, do on oath depose and state that the facts contained in the foregoing document are true and correct to the best of my knowledge and belief.

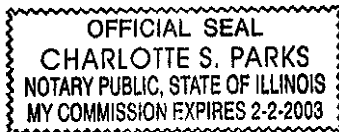


Matthew Berns
FOCAL COMMUNICATIONS CORPORATION
OF ILLINOIS

Subscribed and Sworn
to before me this 12th
day of January, 2000.



Notary Public



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CERTIFICATE OF SERVICE

The undersigned attorney for Focal Communications Corporation of Illinois hereby certifies that she caused copies of the attached Petition For Arbitration and discovery requests to be served on each of the persons listed below in the manner indicated for delivery on January 13, 2000:

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